

Introduced by Senator Negrete McLeod

February 19, 2010

An act relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1400, as introduced, Negrete McLeod. Long-term health care facilities: citations and penalties review.

Existing law specifies the procedures for a licensee of a long-term health care facility, which includes a skilled nursing facility and intermediate care facility, to contest a citation or the proposed assessment of a civil penalty by the State Department of Public Health, which includes the option to adjudicate the validity of the citation in the superior court in the county in which the facility is located.

This bill would declare the intent of the Legislature to enact legislation that would assign responsibility for federal informal dispute resolutions and state citation review conferences to an independent 3rd party outside of the State Department of Public Health, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby decodes all of the
- 2 following:
- 3 (a) Nursing facilities in the state are required to comply with a
- 4 myriad of very specific state and federal laws and regulations as
- 5 a condition of licensure and participation in the Medicare and
- 6 Medicaid programs.

1 (b) Nursing facilities are subject to multiple levels of oversight
2 and enforcement, including regular surveys and complaint
3 investigations conducted by the State Department of Public Health
4 (hereafter, the department).

5 (c) If the department detects a violation of an applicable state
6 or federal requirement during a survey or investigation, it may
7 issue a federal deficiency or state citation or both.

8 (d) If a nursing facility administratively contests the accuracy
9 of a deficiency or citation issued by the department, it is currently
10 required to use a review process managed by that same department.

11 (e) Requiring the department to review its own findings has
12 resulted in an inherent conflict of interest, created lengthy delays
13 in the issuance of final decisions, and diverted significant resources
14 away from the department's primary oversight activities.

15 (f) Other states have successfully addressed similar issues by
16 assigning responsibility for administrative reviews of this nature
17 to another state agency or the state's Medicare Quality
18 Improvement Organization.

19 SEC. 2. It is the intent of the Legislature to enact legislation
20 that would provide a more efficient and effective process for
21 reviewing contested deficiencies or citations against a long-term
22 health care facility, as defined in Section 1418 of the Health and
23 Safety Code, by assigning responsibility for federal informal
24 dispute resolutions and state citation review conferences to an
25 independent third party outside of the State Department of Public
26 Health.